UNITED NATIONS

S

Security Council

Distr.
GENERAL

S/23999
26 May 1992

ORIGINAL: ENGLISH

REPORT OF THE SECRETARY-GENERAL ON THE UNITED NATIONS OBSERVER MISSION IN EL SALVADOR

INTRODUCTION

1. The present report, submitted in accordance with Security Council resolution 729 (1992), describes the activities of the United Nations Observer Mission in El Salvador (ONUSAL) since the cease-fire between the Government of El Salvador and the Frente Farabundo Marti para la Liberación Nacional (FMLN) came formally into effect on 1 February 1992.

2. Mr. Iqbal Riza continues to serve as my Special Representative and Chief of Mission of ONUSAL. The Mission has been carrying out all the various verification tasks assigned to it in the agreements signed by the Government of El Salvador and the FMLN between 4 April 1990 and 16 January 1992. It has also used its good offices to help the two parties to overcome difficulties that have arisen in implementation of the agreements, in particular through promoting, and attending, meetings between them. In addition ONUSAL has been participating as an observer in the work of the National Commission for the Consolidation of Peace (COPAZ), whose composition and functions were defined in the New York Agreement of 25 September 1991. 1/

3. The work of the Mission is described below in eight sections devoted respectively to the verification of the cessation of the armed conflict; the Armed Forces of El Salvador; public security matters; economic and social matters; political participation by FMLN; the restoration of public administration in conflict zones; the judicial system; and the electoral system. ONUSAL's work in relation to the San José Agreement on Human Rights 2/ will continue to be the subject of a separate series of reports, the most recent of which was submitted to the General Assembly and the Security Council under my note of 19 February 1992. 3/

4. ONUSAL continues to be helped in its work by the four "Friends of the Secretary-General" (Colombia, Mexico, Spain and Venezuela) and by other interested Governments.

I. VERIFICATION OF THE CESSATION OF THE ARMED CONFLICT

A. Composition and tasks of the Military Division

5. The Military Division of ONUSAL, which is responsible for verifying the agreement on the cessation of the armed conflict, was established on 20 January 1992 and is under the command of Brigadier-General Victor Suanzes Pardo (Spain). The Division, which began with an authorized strength of 380, currently has 292 military observers from Brazil, Canada, Colombia, Ecuador, India, Ireland, Norway, Spain, Sweden and Venezuela. In addition to the above, eight medical officers provided by Argentina assist ONUSAL in its mission. The Security Council has recently agreed to my recommendation that the Military Division should be retained at its current strength until 1 September 1992. 4/, 5/

6. The Military Division monitors the troops of the Armed Forces of El Salvador and FMLN at the locations where they have been concentrated in accordance with the Peace Agreement; 6/ verifies the inventories of weapons and personnel furnished by the two parties; authorizes and accompanies the movements of both forces; and receives and investigates complaints of violations. It is deployed among 4 regional military offices and 15 verification centres, as shown in the map annexed to the present report. The military observers constantly patrol, by air and land, the entire area under their responsibility.

B. Separation and concentration of forces

7. As stipulated in the Peace Agreement, a joint working group, consisting of the Chief Military Observer of ONUSAL as Chairman, one representative of the Government and one of FMLN, was established on 22 January 1992 to define precisely the designated locations for the two parties' troops and to deal with other aspects relating to the separation and concentration of the opposing forces.

8. Difficulties arose with regard to the definition of some of the 15 locations designated for the concentration of FMLN combatants. In two cases where it proved impossible to achieve an agreed definition, both the Government and FMLN accepted the delimitations determined by the Chief Military Observer, although the Government placed on record its objection to them. As indicated below, there have been difficulties with regard to the locations for the concentration of the troops of the Armed Forces of El Salvador. These have proved more difficult to resolve.

9. By 6 February, which marked the end of the first stage of the separation of forces, the Armed Forces of El Salvador had concentrated its troops at the 100 locations designated in the Peace Agreement. By 2 March, the end of the second stage, the majority of the troops of the Armed Forces of El Salvador had been concentrated at the 62 designated locations. However, at that time the Armed Forces of El Salvador also remained at about 16 additional

locations, on the grounds that they were necessary to protect installations of national importance and, at 2 others, on the grounds of lack of space to accommodate all the concentrated personnel. This was not in conformity with the Agreement. ONUSAL accordingly pressed the Armed Forces of El Salvador to withdraw and they gradually did so. By 25 May 1992 they remained at only one disputed location, other than the two mentioned in paragraph 10 below. ONUSAL continues its efforts to resolve this problem.

10. Considerable difficulties have arisen over the two public security bodies, the Treasury Police and the National Guard, which, under the Peace Agreement, were supposed to be abolished by 1 March 1992, with their members being incorporated into the Army. These difficulties, which are described more fully in section II below, have contributed to the failure to complete the concentration of the two sides' troops in accordance with the Peace Agreement. This is because, for several weeks after their incorporation into the Army, the ex-members of these two bodies remained in their original barracks, even though these were not included in the 62 locations designated for the Armed Forces of El Salvador. This was denounced as a violation of the Peace Agreement by FMLN, which refused to complete concentration of its own forces until the problem was resolved. By 23 April the majority of the ex-Treasury Police and ex-National Guard personnel had been moved into the 62 locations of the Armed Forces of El Salvador but some 3,500 of them remained at the two ex-bodies' headquarters in San Salvador, neither of which is included in the 62 locations. This problem remains unresolved.

11. As for FMLN, its forces had, by 6 February, concentrated at the 50 locations designated for the first stage. FMLN did not, however, complete its second stage concentration by the due date of 2 March. It cited lack of infrastructure at the agreed locations and failure by the Government to comply with other provisions of the Agreement. A series of further deadlines were established but not observed, with FMLN continuing to insist that it would complete its concentration only when the Armed Forces of El Salvador completed their own. A further delay arose in late April when FMLN objected to a law adopted by the Legislative Assembly on the night of 23-24 April concerning the Treasury Police and National Guard (see para. 17 below). At the time of writing the present report, some 8 per cent of FMLN combatants have yet to complete their concentration at the agreed locations. These include combatants who, during the conflict, had belonged to "Committees for Citizen Security" and who still remain at 11 locations. Both sides have assured ONUSAL that, despite these delays, they are committed to comply with their obligations. ONUSAL continues its efforts to resolve this problem, which has had a negative impact on the atmosphere for the implementation of the Agreements as a whole.

C. Inventories of troop strengths and armaments

12. Under the Peace Agreement both sides were obliged to submit, by 23 January, detailed information on the number of their troops and armaments to the Chief Military Observer of ONUSAL. With regard to FMLN, this was done

on time and without incident. However, ONUSAL has serious doubts as to whether the number, quality and age of the weapons declared and presented accurately reflect FMLN's true holdings. FMLN has been repeatedly informed, both in El Salvador and in New York, of these doubts, but it continues to insist that the information provided is accurate.

13. Difficulties also arose over the inventories submitted by the Armed Forces of El Salvador, as some unit commanders maintained that the Agreement did not cover the personnel or weapons of permanent garrisons that were not being moved. ONUSAL clarified that the required information must include all the personnel and armaments to be concentrated, including those already present at some of the locations when the process began. However, there was considerable delay before ONUSAL received all the relevant information. The last inventory was submitted by the Armed Forces of El Salvador on 27 March 1992 and has been verified by ONUSAL.

D. Logistical situation in the areas of FMLN concentration

14. At the beginning of February ONUSAL was asked to help to provide logistical assistance at the 15 areas designated for the concentration of FMLN troops. A coordination mechanism was accordingly established with the United Nations Development Programme (UNDP), which appealed to the international community for funding. Simultaneously, other agencies of the United Nations system, such as the World Food Programme (WFP), the World Health Organization (WHO), working through the Pan American Health Organization (PAHO), and the United Nations Educational, Scientific and Cultural Organization (UNESCO), contributed support in their respective fields of competence. Non-governmental organizations (NGOs) also cooperated, especially Médecins sans Frontières and Caritas Internationalis of El Salvador. The Government, for its part, facilitated these efforts, which included the supply of water, food and shelter, improvement of the road network and assistance in health and education. This collaborative effort is achieving good results with the generous support of the Governments of Canada, Denmark, Japan, Norway, Sweden and the United States of America, and of the European Economic Community.

E. Reintegration of FMLN ex-combatants

15. Under the Peace Agreement at least 20 per cent of FMLN ex-combatants were to have been reintegrated "within a framework of full legality, into the civil, political and institutional life of the country" on 1 May. FMLN has not complied with this provision, citing, inter alia, the Government's delay in implementing those aspects of the Agreement that would facilitate the reintegration of ex-combatants into civilian life, notably those relating to land, the formation of the new National Civil Police and political activity by FMLN. This renders urgent the need to give effect to the relevant aspects of the Agreements. ONUSAL and UNDP have therefore been urging the Government to ensure that these are implemented in accordance with the agreed timetable and that a special effort be made to catch up on delays that have already

occurred. ONUSAL has equally urged FMLN to cooperate with the Government in this work.

II. ARMED FORCES OF EL SALVADOR

16. The Legislative Assembly has adhered to the agreed timetable for approving constitutional reforms affecting the Armed Forces of El Salvador and for the suspension of forcible recruitment as of 1 February. Action has also been taken to give legal form and force to the ad hoc Commission on the purification of the Armed Forces of El Salvador. ONUSAL has been in touch with the members of the Commission to cooperate in planning that body's future activities.

17. On 1 March 1992, the Government announced that the Treasury Police and National Guard were being converted into Military Police and Frontier Guards, respectively, and this change was duly effected at ceremonies on 2 March. This action elicited negative reactions from many who saw in it more a change of form than the substantive change called for in the Agreement. ONUSAL asked the Government for information on how many members of the two former public security bodies were being transferred to the Army, how many were being assigned to new duties as Military Police or Frontier Guards, and how many were being discharged. While ONUSAL was awaiting this information, the Government created further misgivings by securing rapid adoption in the Assembly of legislation that did not clearly abolish the Treasury Police and National Guard. ONUSAL has made it clear to the Government that the law, as adopted, does not comply with the Agreement. The Government has stated that further legislative steps will be taken to abolish the Treasury Police and the National Guard. ONUSAL has asked for clarification of what is intended. This is another matter that has had a negative effect on the atmosphere for implementation of the Agreements as a whole.

18. The preliminary draft legislation on military and armed forces reserve service was submitted to the Legislative Assembly on 7 April. However, some work remains to be done to bring the draft fully into line with the provisions of the Peace Agreement.

19. With regard to the paramilitary bodies mentioned in the Peace Agreement, the civil defence units were registered and located in accordance with the plan presented by the Joint Chiefs of Staff of the Armed Forces. The implementation of the Agreement on this issue has begun and is being verified by ONUSAL. ONUSAL has also requested the Armed Forces of El Salvador to provide details about personnel in the territorial service system, especially the so-called "escoltas militares" or "patrullas cantonales". Several related deadlines have expired and ONUSAL is awaiting information from the Government in this regard. Similarly, while permits enabling individuals to carry military weapons for private use have been suspended or cancelled, no details are available on how such weapons are to be recalled. That process was to have started on 2 March and is to be completed by 28 October.

20. As regards the reduction of the armed forces, a timetable was submitted by the Government to the Secretary-General who, as stipulated in the Agreement, duly informed FMLN. This reduction process is to be supervised by ONUSAL on the basis of information that is being obtained from the Government.

III. PUBLIC SECURITY MATTERS

21. The creation of a new police force, completely civilian in its membership and command, is one of the fundamental components of the Peace Agreement. Under the Agreement this new force, the National Civil Police, is to replace the three existing public security bodies. As reported above, two of these, the National Guard and the Treasury Police, were to be abolished as public security forces and their members incorporated into the Army, although some doubts have arisen as to the adequacy of the Government's compliance with this provision. The third, the National Police, is to continue to operate during the transitional period but will be progressively replaced by the new National Civil Police. Meanwhile the National Police is being closely monitored by the Police Division of ONUSAL.

22. The Division consists mostly of specialists from countries experienced in the organization and operation of civilian police forces. The observers are from Austria, Chile, France, Guyana, Italy, Mexico, Norway, Spain and Sweden, under the command of General Homero Vaz Bresque (Uruguay). The Division currently has 304 of the 631 observers authorized.

23. The deployment of police observers throughout the territory of El Salvador began on 7 February 1992. They are currently deployed among six regional offices and four regional sub-offices, from where they monitor National Police activities through visits and day and night patrols, which average 100 daily. In order to ensure that the National Police functions as the sole body responsible for law and order pending the full deployment of the new National Civil Police and to ensure that the transition from one to the other takes place smoothly, the Division lends its support to the police authorities and accompanies police officials and officers as they discharge their duties.

A. Establishment of the National Civil Police

24. In order to proceed with the organization of the National Civil Police, the President of the Republic, after consulting with FMLN through the United Nations, selected a Coordinator on 28 December 1991. Although this took place ahead of schedule, other measures have been subject to delays of varying durations: on 10 February 1992 (10 days late), COPAZ appointed the eight members of its Subcommission on the National Civil Police; the President of the Republic, choosing from lists submitted by COPAZ, appointed the Director-General and the members of the Academic Council of the new National Academy for Public Security on 20 March (5 days late) and 26 March (11 days late), respectively. The preparation by the Subcommission of the draft laws

relating to the Academy and the National Civil Police was also delayed and, whereas the former was adopted by the Legislative Assembly on 2 April 1992, full discussion of the latter by COPAZ is still perding. Since under the Peace Agreement all the members of the National Civil Police must be graduates of the Academy, it is a matter of extreme urgency that the latter begin operating without delay. Another most serious delay has been in the appointment of the Director-General of the National Civil Police, which was supposed to take place by 2 March 1992 but is still awaited. It had originally been envisaged that the Coordinator would be quickly confirmed as Director-General, which would have enabled him to take concrete and effective steps towards the establishment of the National Civil Police and thus avoid the unfortunate delays that have occurred.

25. To assist in the establishment and operation of the Academy during its first two years, a technical mission of experts from Spain and the United States, headed by the UNDP Resident Representative in El Salvador, has been in the country since 3 March 1992. Since the mission operates in the framework of the joint activities of UNDP and the Government of El Salvador for the establishment and operation of the Academy, it has been working with a government team.

26. FMLN has pointed out that, as one of the parties to the Peace Agreement, its views on matters relating to the Academy should also be taken into consideration. ONUSAL and UNDP have now ascertained FMLN's views. They are being transmitted to the Academic Council which is the body overseeing the establishment of the Academy.

27. It is intended that, in the first two years, the Academy will train 5,700 new police officers at the basic level and 240 at the executive and senior levels and that, during the following five years, the corresponding numbers will reach some 10,000 and 500 respectively. This will require a sizeable budget, to which the Governments of Spain and the United States have already expressed their willingness to contribute. The generous financial support of other members of the international community will also be needed.

28. The Government of El Salvador has committed itself to providing premises for the Academy, together with the necessary infrastructure for its operation. The United Nations asked that the Academy should be installed either in the headquarters of the Atlacatl Rapid Deployment Infantry Battalion or in the current Military Academy, which was originally the Academy for Public Security and which was taken over by the Army in December 1991. However, after considerable delays, the Government declined to make either of these sites available and suggested a number of alternatives. Of these, the technical mission has chosen the headquarters of the Bracamonte Rapid Deployment Infantry Battalion, which is to be disbanded under the Peace Agreement. These premises were initially to be made available in late May 1992 but this has been postponed to the end of July 1992. The technical mission has accordingly suggested that the Academy operate provisionally on the premises of the Technical Centre for Police Training, which are to become available in late May, although the latest indications are that it will not be

possible to begin tuition until early July. Under this procedure, the Academy would be obliged to reduce the number of recruits from 330 to 270 a month until it can use the Bracamonte premises. From then on, the Technical Centre for Police Training premises would be used exclusively for the training of executive and senior officers. FMLN has expressed strong objections to this approach. ONUSAL has urged the Government to ensure that the training of police personnel at all levels begin simultaneously. It is still awaiting a response.

29. Disagreement has also arisen over whether former members of the Treasury Police and the National Guard may be admitted to the Academy. The Government maintains that both categories could eventually be eligible provided the personnel concerned were properly discharged and had become civilians. ONUSAL views this position as contrary to the Agreement's concept of a completely new civilian police force which would replace the previous military public security bodies. The Government has given assurances that it will not present former members of the two bodies as candidates in the immediate future.

B. Transfer of ex-Treasury Police and ex-National Guard personnel to the National Police

30. It is generally acknowledged that common crime has recently increased in El Salvador and that, following the transfer of the members of the Treasury Police and the National Guard to the Army, the National Police does not have sufficient human and material resources to combat it. On this basis, the Government has transferred large numbers of personnel from the two former public security bodies to the National Police on the grounds that its responsibility for public security gives it no alternative. The Government argues that there is no express prohibition of this in the Agreements. ONUSAL has made it clear that in its view this argument is irreconcilable with the whole thrust of the Agreements, which is to replace the existing public security bodies with a new civilian police force. The first step in this process was precisely the disbanding and abolition of the Treasury Police and the National Guard. To reassign their ex-members to law and order functions thus runs directly counter to the Agreements. ONUSAL has asked for details of the personnel concerned so that it can closely monitor their activities in the National Police.

IV. ECONOMIC AND SOCIAL MATTERS

A. Land-tenure system

31. The complex agrarian problem in El Salvador has deep-seated historical roots that the present report does not attempt to analyse. It has, however, been recognized as one of the main causes of the armed conflict, as a result of which many properties were abandoned and the inhabitants of many rural areas displaced. It is estimated that about half a million persons were displaced persons and approximately 45,000 became refugees. Many of the

displaced persons have settled in communities, some of them on abandoned lands. These flows of population, along with other phenomena associated with the war, have altered the pattern of land ownership in the conflict zones.

32. The subject of land was taken up in the New York Agreement of 25 September 1991, and again in the Peace Agreement of 16 January 1992, in which reference is also made to an agreement signed between the Government and peasant organizations on 3 July 1991. The Peace Agreement stipulates that, pending agreement on various issues under this item, the current land-tenure situation will be respected in former conflict zones and landholders will not be evicted. It also assigns to COPAZ the task of verifying the implementation of the provisions relating to these issues through a special commission. The Special Commission, which has the same composition as COPAZ, took up the problem of land tenure in the conflict zones one week later than called for in the implementation timetable. One of the difficulties it faces is that the Peace Agreement does not define the conflict zones.

33. The months of February and early March saw a continuation in the countryside of the tension that had begun there after the signing of the New York Agreement. Various peasant groups seized properties in a number of departments and many were evicted by the public security bodies, in some cases with the support of the armed forces and without a court order. These actions gave rise to insecurity and concern among FMLN combatants who were awaiting concentration at the designated locations. On 15 February, COPAZ appealed to both peasants and landowners to permit the operation of the conflict-resolution mechanisms envisaged in the agreements. This appeal, however, was only partially successful as further occupations took place and landowners initiated lawsuits demanding that their properties be vacated and the institutional framework respected. These developments affected properties in and outside the conflict zones.

34. Subsequent efforts by ONUSAL, on the basis of the appeal made by COPAZ, to freeze the situation with regard to land occupations and evictions were unsuccessful. As this was affecting the atmosphere for the implementation of the agreements as a whole, and at the request of both the Government and FMLN, I sent Mr. Marrack Goulding, Under-Secretary-General for Peace-keeping Operations, to El Salvador to examine with the parties how to restore the necessary climate of trust. In the course of his visit, from 11 to 14 March 1992, Mr. Goulding and Mr. Riza had several meetings with the President of the Republic and his advisers and with the General Command of FMLN. At a final joint meeting on 13 March it was agreed that land seizures and evictions would be suspended in order to facilitate the processing of the cases submitted to the Special Commission of COPAZ. In addition, consultation mechanisms were established between the Government and FMLN, with the good offices of ONUSAL, to devise pragmatic solutions to these cases. These mechanisms are working, and it is to be hoped that the goodwill expressed by both parties at recent high-level joint meetings convened under the good offices of ONUSAL will be translated into an early solution of this problem.

B. Forum for Economic and Social Consultation

35. The convening of the Forum for Economic and Social Consultation had been scheduled for 15 February. To that end, COPAZ invited the leaders of the most representative business and labour organizations to participate in a discussion, inter alia, on the composition and organization of the Forum.

36. During the meetings which, owing to the very full COPAZ schedule, did not begin until 26 February, the business representatives publicly expressed their concern with what they described as the climate of insecurity resulting from land seizures and labour conflicts. On 23 March, at a meeting of the World Bank Advisory Group in Washington, in which representatives of the Government, FMLN and the political parties participated, the Director of the National Private Enterprise Association indicated that he would participate in the Forum, which COPAZ then convened for 11 May. Subsequently, however, the National Private Enterprise Association informed COPAZ that it would postpone its participation. Given the Forum's responsibilities under the Agreement for securing agreements on the economic and social development of the country, the prompt and full participation of all sectors is essential.

C. National reconstruction plan

37. The Government submitted the national reconstruction plan to FMLN on time, for its suggestions. In addition to projects for the rebuilding of infrastructure in the municipalities affected by the conflict and for production schemes, agreement was reached on making funds available for the strengthening of the democratic institutions provided for in the Agreement and for technical assistance. In order to obtain the additional funds needed for its implementation, the plan was presented at the meeting of the World Bank Advisory Group referred to above and received a positive response from the international community. Despite reservations in certain sectors, the implementation of a small number of projects has begun with the Government's own resources, pending the receipt of the external assistance that has been pledged. The Government has said that, for the plan to become fully operational, public administration must be restored in the conflict zones.

38. Another important aspect is the formulation of programmes to promote the reintegration of ex-combatants of both sides into civilian life. The delay in establishing such programmes is cited by FMLN as another factor in its decision to postpone the reintegration of the first contingent of its combat personnel.

V. POLITICAL PARTICIPATION BY FMLN

39. On 23 January 1992, the Legislative Assembly of El Salvador adopted a law on national reconciliation granting amnesty for political crimes and offences under ordinary law, with the exception of cases within the purview of the Commission on the Truth or those committed by individuals already convicted in

a jury trial. The measure applies to FMLN leaders who are members of COPAZ, as well as those who are members of other bodies dealing with the implementation of the Agreements. Also amnestied are non-combatant members of FMLN, war-wounded persons living outside the country and those detained for political offences. The amnesty does not extend to those members of FMLN who, under the Peace Agreement, have been temporarily concentrated with their arms, at designated locations. The law does provide, however, that any criminal or civil action against such individuals for acts covered by the amnesty shall be suspended.

40. The adoption of the law on reconciliation has enabled the members of the General Command and other FMLN leaders to re-enter El Salvador legally. Since their return, they have had freedom of movement and ample access to the mass media, and they have obtained licences for two radio stations and one television channel. On 1 February, the FMLN representatives in the recently formed COPAZ swore allegiance to the Constitution together with the other members of that body. Political detainees have been released, with the exceptions provided for in the law on national reconciliation.

41. The returning FMLN leaders, their safety guaranteed by the Government, were accompanied during the first few days by members of the National Police and were allowed, under the terms of the Agreement, to make arrangements for personal bodyguards. The support of the representatives in El Salvador of the four "Friends of the Secretary-General" in this process was of great importance, as was the assistance provided by several other Governments, notably those of Brazil, Chile, France, Nicaragua and the United Kingdom of Great Britain and Northern Ireland. Some problems have nevertheless arisen over various aspects of the security of FMLN leaders. Efforts are being made by ONUSAL with the government authorities to streamline the relevant procedures. At the same time, COPAZ is examining this question and has stated its intention to promote the legislative or other steps that may be necessary.

42. According to the Peace Agreement, the Government was to have promoted a decree for the legalization of FMLN as a political party in the Legislative Assembly starting on 1 May 1992. The Government has informed ONUSAL that, rather than present a draft decree - which, in its view, would provoke a strong debate - it needed to prepare the ground to ensure a consensus in the Assembly. It has since contacted various political parties to that effect.

43. Prior to 1 May 1992, ONUSAL had taken up with FMLN occasional complaints by the Government that FMLN was violating the Agreement by setting up offices at various locations and by other political activities by its leaders and other personnel, especially ex-combatants concentrated in the designated locations. Since 1 May 1992, however, the Government has indicated that, while the process of legalization is proceeding, FMLN can take steps to organize itself as a party. For its part, FMLN urges quick action by the Government, arguing that until it is legalised it will be hindered in its political activities. Nevertheless, a rally by FMLN to launch itself as a political party took place without incident on 23 May 1992.

44. The Government has shown its willingness to facilitate the return of the war-wounded currently outside the country through the Office of the United Nations High Commissioner for Refugees (UNHCR). Among those expected to return are a number of individuals living in Cuba, whose repatriation has been delayed because Cuba and El Salvador do not have diplomatic relations. UNHCR is attempting to solve the problem with the cooperation of a third country acting as intermediary.

VI. RESTORATION OF PUBLIC ADMINISTRATION IN CONFLICT ZONES

45. Following the entry into force of the cease-fire agreement, restoration of public administration in conflict zones began gradually, in most cases in consultation with ONUSAL, at a pace that varied from region to region. In some locations, judges and mayors returned without any difficulty, although some are now facing problems in carrying out their functions as a result of inadequate infrastructure or lack of support and cooperation from the community and NGOs. In other locations, judges and mayors have been unable to return because of opposition from FMLN, the community and NGOs and the absence of communication with such groups which is necessary to facilitate the restoration process. Sixty-eight of the 262 mayors elected in El Salvador in 1991 had been forced by the conflict to operate away from their municipalities; some 24 of them have now returned.

46. ONUSAL is convinced that the return of judges and mayors and their effective functioning can succeed only in a context of open dialogue between local authorities and the bodies that performed the functions of local government during the armed conflict. Not only will such dialogue guarantee peace and reconciliation in the zones most severely affected by the armed conflict, but it will permit local consultation mechanisms to revive and ensure broad community participation in municipal government, without adversely affecting the institutional framework. ONUSAL has called upon the parties to show the greatest possible flexibility and is working at the regional level to promote a consensus in the various locations affected.

VII. JUDICIAL SYSTEM

47. The measures provided in the Peace Agreement concerning this subject and their implementation according to the agreed timetable will be discussed in future reports of the ONUSAL Human Rights Division, in keeping with the mandate given to it by the San José Agreement to "offer its support to the judicial authorities of El Salvador in order to help improve the judicial procedures for the protection of human rights and increase respect for the rules of due process of law". 7/

48. Meanwhile COPAZ and the Legislative Assembly have approved, prior to the prescribed date, the law establishing the Office of the National Counsel for the Defence of Human Rights. The Counsel has been appointed, but his office is not yet fully functional owing to the fact that the budget has only

recently been approved. In addition to the resources provided by the Government of El Salvador, it is hoped that additional financial assistance will be made available by Governments and international bodies.

VIII. ELECTORAL SYSTEM

49. As stipulated in the Mexico Agreements of 27 April 1991, 8/ COPAZ appointed a Special Commission on this issue, which will study the preliminary draft amendments to the Electoral Code. Subsequently, the Legislative Assembly appointed, with some delay, the Supreme Electoral Tribunal, which will have as its main task the preparation of the 1994 legislative and presidential elections.

IX. FINANCIAL ASPECTS

50. The General Assembly by its resolution 46/240 of 22 May 1992 appropriated an amount of $39 million gross ($37 million net) for the operation of ONUSAL for the period from 1 January to 31 October 1992. This appropriation includes provision for the expanded mandate of ONUSAL based on Security Council resolution 729 (1992).

51. As at 26 May 1992, unpaid assessed contributions to the ONUSAL special account for the first six months from 1 July to 31 December 1991 amounted to $1.98 million.

X. OBSERVATIONS

52. The agreements that the Government and FMLN signed, under the auspices of the United Nations, between 4 April 1990 and 16 January 1992, established the framework for implementation of the political understandings between them. The goal is to end 12 years of civil conflict, consolidate peace in El Salvador and return to a normal political process, which should culminate in 1994 in free and fair elections with broad participation. This process is not an easy one. The agreements are complex and demand a commitment to compromise and fundamental adjustments in political and social attitudes. Nor are they self-executing. The United Nations is committed to assist the two parties but success will be assured only by their political will and their acceptance of national reconciliation as the overriding national goal.

53. The Government and FMLN are to be commended for their success in maintaining the cease-fire, which has not once been broken. Nor has there been any major incident to threaten this fragile first phase of national reconciliation. There have, however, been some serious delays in implementing various provisions of the agreements and these have undermined each side's confidence in the other's good faith.

54. I am particularly concerned by the continuing failure of both sides to concentrate all their forces in the designated locations, which was supposed to have been completed by 2 March 1992, i.e. almost three months ago. On the Government's side, substantial numbers of armed personnel are still outside the designated locations at the headquarters of the former National Guard and Treasury Police. FMLN's failure to concentrate its remaining forces is equally unacceptable. It is essential that both parties comply, independently and without further delay, with their respective obligations. I have also expressed to FMLN my doubts about whether the inventories of arms that it has presented to ONUSAL accurately reflect its true holdings. Suspicions that FMLN is retaining clandestine caches of arms and ammunition have had a destabilizing effect on the whole implementation process.

55. Other sources of serious concern are the Government's failure to establish the National Public Security Academy and begin recruitment for the National Civil Police on the programmed date of 1 May 1992 and FMLN's failure, on the same date, to return the first 20 per cent of its combatants to civilian life. 1 May 1992 was also the date on which the Government was supposed to begin promoting legislation to legalize FMLN as a political party. ONUSAL has from the outset taken the position that one breach of the agreements cannot be used to justify another. It cannot, however, be ignored that the timetable for implementation, contained in chapter IX of the Peace Agreement, does not constitute a haphazard sequence of actions that can easily be altered. It is, on the contrary, an intricately designed and carefully negotiated mechanism whose purpose is to synchronize (a) the reintegration of FMLN's ex-combatants into civilian life and (b) the measures that the Government has committed itself to undertake in order to facilitate that process, especially as regards agriculture, political activity and recruitment into the National Civil Police. It is for this reason that the delays that have occurred on these latter issues arouse such serious concern.

56. In other cases implementation has been impeded by the two parties' contradictory interpretations of specific provisions in the agreements. This has sometimes led them to exchange public accusations rather than working together, with the good offices of ONUSAL, to find practical and pragmatic ways of putting the agreements into effect by honouring their spirit rather than insisting on legalistic interpretations of their letter. This has been a particular problem in relation to land tenure, which was one of the main roots of the conflict. Notwithstanding the role assigned to COPAZ by the agreements, which COPAZ has not been able to discharge in full, ONUSAL has, at the request of the parties, used its good offices to help the two sides to tackle the land issue in a constructive spirit at the highest level. I am grateful to both sides for honouring the commitments they gave in March to halt occupations of, and evictions from, lands while a pragmatic solution is sought to this problem.

57. There are other issues on which a similarly restrained and pragmatic search for solutions is needed. These include the restoration of public administration in zones of former conflict and certain questions relating to the former Treasury Police and National Guard. It was agreed in the

negotiations that these two bodies would be dissolved and would exercise no further public security functions. Their personnel, after being transferred to the Armed Forces, were to be included in the reduction of those forces. As already stated in this report, the manner in which these two bodies were dissolved and the subsequent induction of some of their ex-members into the National Police have raised serious questions about whether the Government has complied with the agreements on these points.

58. The present report gives an idea of the complex, varied and delicate nature of the verification tasks entrusted to ONUSAL. In addition to its specific verification responsibilities, ONUSAL is also exercising its good offices to help the parties to implement the agreements. In these endeavours, it receives valuable support from the four "Friends of the Secretary-General", as well as others who are in a position to help.

59. ONUSAL is operating in an atmosphere of deep distrust, which may be an inevitable consequence of a long and bitter conflict. Its insistence on maintaining its impartiality is sometimes misperceived by each side as being partiality towards the other. In this context, I regret to have to report to the Security Council that there has recently been a recurrence of threats against the security of the Mission and its personnel. 9/ The Salvadorian authorities have been informed and I am confident that they will succeed in identifying the authors of these threats, which until now have been anonymous, and in preventing any hostile acts against the Mission's personnel.

60. In telephone conversations on 15 May 1992, after I had reviewed a first draft of the present report, I spoke to President Cristiani of El Salvador and to Mr. Schafik Handal of the General Command of FMLN about my concerns at both sides' failure to comply fully with the timetable established by the agreements, making special reference to the points mentioned in the preceding paragraphs. President Cristiani told me that the two sides were meeting regularly in order to establish a timetable for recovering the time lost. He gave me an assurance that everything that had been delayed would be put back on track and described various steps he had taken to that end. Mr. Handal also spoke of the meetings between the two sides to set new deadlines for implementation of various points in the agreements. He said that FMLN's admitted failures to comply with the existing timetable were due to the Government's non-compliance with many of its commitments. FMLN would have no problem in complying with the timetable, without waiting for the Government to do so, if it was given assurances that third parties would ensure that the Government also would comply. Mr. Handal assured me that FMLN was participating seriously in the meetings with the Government; it wanted to adhere to the existing agreements and not renegotiate them. I assured both my interlocutors of my steadfast support for the agreements and my readiness to do all I could to help both sides to implement them. I said that I would refer in this report to what they had said and looked forward to being able to state in the next report that the process was indeed back on course.

61. In conclusion, I should like to pay tribute to my Special Representative, Mr. Iqbal Riza, and to all the personnel of ONUSAL who, under his leadership, are tackling with perseverance and courage the difficult but noble task of helping to establish a just and lasting peace in El Salvador.

Notes

1/ S/23082.

2/ S/21541, annex.

3/ S/23580.

4/ S/23987.

5/ S/23988.

6/ S/23501, annex.

7/ S/21541, annex, para. 14 (h).

8/ S/23130, annex.

9/ S/22494, para. 6.

MAP NO. 3677 UNITED NATIONS
APRIL 1992